

**ORIGINAL**

**BEFORE THE**  
**Federal Communications Commission**

WASHINGTON, D.C.

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In the Matter of )

Fees for Ancillary of Supplementary )  
Use of Digital Television Spectrum )  
Pursuant to Section 336(e)(1) of the )  
Telecommunications Act of 1996 )

MM Docket No. 97-247

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FEDERAL COMMUNICATIONS COMMISSION  
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To: The Commission

**REPLY COMMENTS OF**  
**SINCLAIR BROADCAST GROUP, INC.**

Sinclair Broadcast Group, Inc. ("Sinclair"), by its attorneys, hereby submits its reply comments on the Commission's Notice of Proposed Rule Making ("NPRM") in the above-captioned proceeding. Sinclair, which has long advocated the provision of ancillary and supplementary DTV services, commends the Commission's efforts to implement a fee system that will fairly compensate the public for use of the DTV spectrum. Sinclair agrees with the numerous commenters who favor annual fees on the ancillary and supplementary use of DTV spectrum equal to approximately one to two percent of broadcasters' gross revenues from such use. In addition, Sinclair supports those parties who argue that the fee should not be implemented until the feeable DTV services have been offered for at least two years.

**Introduction**

Sinclair, a publicly-traded company with thousands of shareholders and a multi-billion dollar market capitalization, is one of the nation's largest group television owners. Sinclair is the licensee of twenty six commercial television stations, has pending applications to acquire ten

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additional stations, and programs many others pursuant to time brokerage agreements. Sinclair has been an extremely active commenter before the FCC and Congress in matters relating to digital television.<sup>1/</sup> In particular, Sinclair was one of the first broadcasters to recognize that the low DTV power levels assigned to UHF stations would prevent these stations from providing adequate service to their core market areas,<sup>2/</sup> and was at the forefront of the effort that led the Commission to raise its DTV power ceiling for these UHF licensees.<sup>3/</sup>

Sinclair intends to be a leader in the transition to digital technology, and is committed to bringing digital service to the public as soon as economically feasible. Sinclair has already invested millions of dollars to upgrade the facilities of its Baltimore station, WBFF(TV), and is the first television group to broadcast digital multicasting.<sup>4/</sup> As a potential leading provider of DTV ancillary and supplementary services, Sinclair has a strong interest in the outcome of this proceeding.

### **Discussion**

Sinclair believes that the Commission should implement a fee system that will fairly compensate the public for this use, but neither be unfair to DTV consumers, nor economically

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<sup>1/</sup> See, e.g., Federal Document Clearing House Congressional Testimony, "Testimony of David D. Smith, President Sinclair Broadcast Group, Inc., Senate Commerce Transition to Digital Television," (September 17, 1997).

<sup>2/</sup> See Reply Comments of Sinclair Broadcast Group, Inc., MM Docket No. 87-268 (January 24, 1997).

<sup>3/</sup> Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order, 13 FCC Rcd 7418; FCC 98-23, February 23, 1998 at para. 81.

<sup>4/</sup> See PR Newswire, "Sinclair Debuts First Digital TV in Baltimore; First Ever Multi-Station, Multi-Program Digital Transmissions," March 2, 1998. See also Broadcasting & Cable, "Sinclair Tests Multichannel DTV," No. 25, Vol.128 p. 16, June 15, 1998.

burdensome for broadcasters or for the Commission. Accordingly, Sinclair agrees with those commenters who would assess annual fees on broadcasters gross revenues from ancillary and supplementary DTV services. This system will satisfy a key Commission goal, the creation of a fee program that is simple and convenient to calculate and implement.<sup>5/</sup> Clearly, a fee based on a fixed percentage of gross revenue is far superior to the “net revenue or incremental profit” model, which would require broadcasters to apportion production, personnel, and service costs among ancillary and non-ancillary broadcast services. The net revenue model would cause an accounting nightmare for the broadcasters and create a myriad of enforcement issues for the Commission.

Sinclair also agrees with those commenters who argue that too high a fee on ancillary and supplementary DTV services might dissuade many broadcasters from providing these services.<sup>6/</sup> A fee of approximately one to two percent on gross revenues is appropriate. As the DTV industry develops, the Commission will have the flexibility to adjust this percentage if necessary.

Finally, the gross revenue model does not take into account the profitability of a given service, and it is unlikely that broadcasters will earn a net profit from their ancillary and supplementary DTV services in their initial years. Accordingly, Sinclair agrees with commenters who argue that in order to promote the development of these services, the Commission should forbear from implementing this fee program during the first two years of ancillary and supplementary service.

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<sup>5/</sup> NPRM at para. 9.

<sup>6/</sup> *See also Id.* at para. 10.

**Conclusion**

Sinclair Broadcast Group, Inc. respectfully urges the Commission to adopt the gross revenue model described herein.

Respectfully submitted,

A handwritten signature in cursive script, reading "Martin R. Leader". The signature is written in black ink and is positioned above a horizontal line.

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